



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN  
and

THE HONOURABLE MRS. JUSTICE J.NISHA BANU  
W.A(MD)No.601 of 2015

and  
M.P(MD)No.1 of 2015

TNPL Staff Association Reg.No.631/  
TRI District.25.11.1985,  
Tamil Nadu Newsprint and Papers Limited,  
Kagithapuram-639 136,  
Karur District,  
represented by its President,  
Pichandi Natesan.

...Appellant/Petitioner

Vs.

1.The Chief Election Commissioner,  
O/o the Election Commission,  
Nivachan Sadan, Ashoka Road,  
Connaught Place, New Delhi-110 001.

2.The Chief Secretary to Government,  
Government of Tamil Nadu,  
Fort St.George, Secretariat,  
Chennai-600 009.

3.The Principal Secretary to Government,  
Industries Department, Government of Tamil Nadu,  
Fort St.George, Chennai-600 009.

4.The Principal Secretary to Government,  
Labour and Employment Department,  
Fort St.George, Secretariat,  
Chennai-600 009.

5.The Chief Educational Officer,  
Public(Election) Department,  
Tamilnadu State Election Commission,  
Fort St.George, Secretariat,  
Chennai-600 009.

6.The Chief Election Commissioner,  
O/o the Tamilnadu State Election Commission,  
No.208/2, Jawaharlal Nehru Road,  
Opposite to Chennai Metropolitan Bus Terminus (MBT),  
Arumbakkam, Chennai-600 106.



7.The Deputy Commissioner of Labour,  
O/o the Joint Commissioner of Labour,  
55, Nehruji Nagar,  
Dindigul-624 001.

8.Thiru R.Mani,  
The Director (Operations) - Contractual Basis,  
Tamilnadu Newsprint and Papers Limited,  
Kagithapuram-639 136.

9.Thiru P.Giridharan,  
Chief General Manager(Finance),  
Tamilnadu Newsprint and Papers Limited,  
Kagithapuram-639 136.

10.Thiru P.Pattabiraman,  
General Manager (HR),  
Tamilnadu Newsprint and Papers Limited,  
Kagithapuram-639 136.

11.Thiru R.Rajagopalan,  
Deputy General Manager(Finance),  
Tamilnadu Newsprint and Papers Limited,  
Kagithapuram-639 136.

12.Thiru R.Sridhar  
Manager(Accounts),  
Tamilnadu Newsprint and Papers Limited,  
Kagithapuram-639 136.

13.Thiru A.Kishore,  
The General Manager (Corporate Finance),  
Tamilnadu Newsprint and Papers Limited,  
67, Mount Road, Guindy,  
Chennai-600 032.

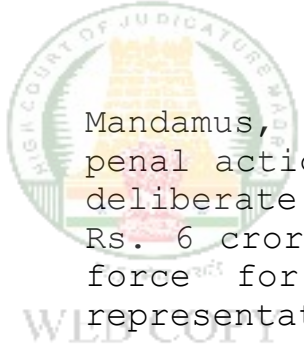
14.Thiru R.P.Arivudainambi,  
Deputy General Manager (Corporate Technical Cell),  
Tamilnadu Newsprint and Papers Limited,  
67, Mount Road, Guindy,  
Chennai-600 032.

...Respondents/Respondents

PRAYER: The Writ Appeal is filed under Clause 15 of Letter Patent Act praying to set aside the order passed by this Court in W.P. (MD)No.15199 of 2014, dated 30.03.2015.

<https://hccourts.mv.in/MD/15199/2014> :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of



Mandamus, directing the respondent 5 and 6 to take appropriate penal action against the respondents 8 to 14 for their willful and deliberate action of individual settlement of wages to the tune of Rs. 6 crores approximately while the Model code of Conduct was in force for Parliamentary Election 2014 on the basis of the representation of the petitioner dated 18.04.2014.

For Appellant :Mr.P.Krishnasamy

For Respondents:Mr.K.K.Senthil for R.1

Mr.K.Bhaskaran for R.8 to R.14

R.2, R.5 and R.6 - Tapal not yet served

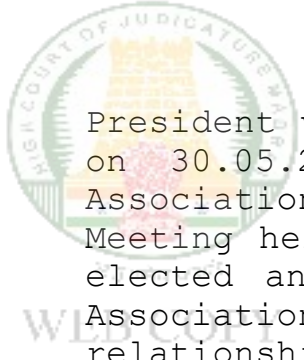
#### JUDGMENT

(Judgment of this Court was delivered by M.SATHYANARAYANAN, J.)

One Mr.Pichandi Natesan, claiming to be the President of the TNPL Staff Association, which is a registered Trade Union, has filed a writ petition in W.P.(MD)No.15199 of 2014 praying for issuance of Writ of Mandamus directing the respondents 5 and 6 viz., the Chief Electoral Officer, Public (Election) Department, Tamil Nadu State Election Commission, Fort St. George, Secretariat, Chennai-09 and the Chief Election Commissioner, O/o the Tamil Nadu State Election Commission, Arumbakkam, Chennai-06, to take appropriate penal action against the respondents 8 to 14 - the officials of Tamil Nadu Newsprint and Papers Limited for their wilful and deliberate action of the individual settlement of wages to the tune of Rupees Six Crores approximately, while the Model Code of Conduct was in force for the Parliamentary Elections - 2014 on the basis of the representation of the petitioner dated 18.04.2014. It is a specific case of the petitioner that during the Model Code of Conduct which came into force between 01.04.2014 to 30.04.2014, such act came into being and as such, prayed for appropriate orders in the Writ Petition.

2. The respondents 8 to 14 filed their counter affidavits, denying the averments and in paragraph 5, they stated about the pendency of various litigations and also took a stand that the litigants have not appeared for contesting the writ petition and the matter was taken up for final disposal and the learned Judge, having found that the material facts in the form of pending litigations have been suppressed and also indulging in forum shopping, dismissed the writ petition with the costs of Rs.10,000/- (Rupees Ten Thousand only) payable to the High Court Legal Services Committee, vide order, dated 30.03.2015. Challenging the said order, the present Writ Appeal is filed.

3. The Writ Appeal was admitted on 04.08.2015 and notice was ordered. The Writ Appeal was listed for hearing on 23.09.2016 <https://hcservices.courts.tn.gov.in/hcservices/>, one S.Shanmugasundaram, the present President of TNPL Staff Association, has filed an affidavit dated 23.09.2016 in USR No.4558 of 2016 stating, among other things, that the then



President viz., N.Pichandi Natesan has been dismissed from service on 30.05.2016 and he is no longer President of TNPL Staff Association and pursuant to the decision taken in the General Body Meeting held on 20.07.2016, a new set of office bearers have been elected and he has been elected as the President of TNPL Staff Association and since the Association wants the cordial relationship with the TNPL Management, a decision has been taken to withdraw this Writ Appeal.

4. However, Mr.P.Krishnasamy, learned Counsel appearing for the appellant viz., TNPL Staff Association represented by its President N.Pichandi Natesan, has strongly opposed the said affidavit and also opposed for withdrawal of writ appeal and therefore, the matter was directed to be listed today.

5. The learned Counsel appearing for the appellant/writ petitioner would contend that as per the Bye Laws of TNPL Staff Association, the selection of new office bearers is *per se* illegal, even otherwise, as per the decision taken in the Extraordinary General Body Meeting held on 29.09.2011, he can continue his present position until the receipt of the order received from the respective Courts and since the settlement came into effect during the Model Code of Conduct came into force, the respondents 1 and 2 are bound to consider the representation of the petitioner and pass orders in accordance with law and the learned Judge has not properly appreciated the factual aspects and erroneously dismissed the writ petition with costs and therefore, prayed for interference.

6. Per contra, Mr.K.Baskaran, learned Counsel appearing for the respondents 8 to 14 would submit that there are very many earlier various litigations pending and the facts relating to the said litigations have been suppressed in the affidavit filed in support of the writ petition. He would further contend that since a new set of office bearers have been elected on 20.07.2016, Mr.Pichandi Natesan cannot be no longer claim to be the President of TNPL Staff Association and on that ground also, the prayer sought for by the newly elected Office Bearers for withdrawal of writ appeal may be considered or otherwise, the writ appeal may be disposed of on merits.

7. Mr.S.Shanmugasundaram and T.S.Senthilkumar, who claimed to be the President and Vice President elected by the new office bearers on 20.07.2016, had invited the attention of this Court to the Annual General Body meeting held on 20.07.2016 (as cited *supra*) and would submit that they want to have a cordial relationship with the TNPL Management and therefore, pray for withdrawal of this writ appeal.

<https://hcservices.ecourts.gov.in/Tnscs/> This Court has paid it's best attention to the rival submissions and also perused the materials placed before this Court.



9. It is a specific case of the appellant/writ petitioner that the special Bye Laws have been violated without impunity and therefore, the subsequent development in the form of dismissal of the petitioner from service can be ignored and appropriate orders may be passed directing the Election Commission of India to take action on the representation as to the violation of Model Code of Conduct which was in force during the Parliamentary Elections.

10. In the considered opinion of this Court, the point urged by the learned Counsel appearing for the appellant/writ petitioner lacks merit and substance.

11. When this Court put a specific question as to whether the petitioner has suppressed the facts of earlier litigations, no plausible explanation or answer has been given by the learned Counsel for the appellant/writ petitioner and that apart, the petitioner was also dismissed from service on 30.05.2016 by the TNPL Management and according to the learned Counsel for the appellant/writ petitioner, the departmental appeal has been preferred and the same is pending.

12. Insofar as the selection of new set of office bearers on 20.07.2016, though the learned Counsel for the appellant/writ petitioner put forth his contention that the said election is totally in gross violation of bye laws and it has to be declared as illegal, this Court cannot do so.

13. The new set of Office Bearers appears to be taken charge and in their affidavits dated 23.09.2016, filed in USR No.4558 of 2016, dated 23.09.2016, they have sought to withdraw this Writ Appeal.

14. In the light of the subsequent development, viz., the dismissal of the writ petition on 30.05.2016, coupled with the fact that the new set of Office Bearers have also taken charge of the appellant Association on 20.07.2016, this Court is of the considered view that Mr.Pichandi Natesan cannot represent the appellant Association as the President.

15. Insofar as the contention put forth by the learned Counsel for the appellant/writ petitioner that in terms of the decisions taken in the Extraordinary General Body Meeting held on 29.09.2011, he can continue his present position until the receipt of the order received from the respective Courts, this Court is of the view that it is not a part of bye-laws and therefore, the petitioner is not having any right to continue his position as the President of the TNPL Staff Association.

16. In the light of the above facts and circumstances, the affidavit of the present set of Office Bearers dated 23.09.2016 is



accepted and the Writ Appeal is dismissed as withdrawn. The costs of Rs.10,000/- (Rupees Ten Thousand Only) awarded in the writ petition is also set aside. However, in the facts and circumstance of the case, there shall be no order as to costs. Consequently, the connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar(Records)

/True copy/

Sub Assistant Registrar(CS)

To

- 1.The Chief Election Commissioner,  
O/o the Election Commission,  
Nivachan Sadan, Ashoka Road,  
Connaught Place,  
New Delhi-110 001.
- 2.The Chief Secretary to Government,  
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Arumbakkam, Chennai-600 106.
- 7.The Deputy Commissioner of Labour,  
O/o the Joint Commissioner of Labour,  
55, Nehruji Nagar,  
Chennai-600 001.



Copy to : The Registrar Judicial,  
(High Court Legal Service Committee),  
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.P.Krishnasamy, Advocate in SR.63263  
+1cc to Mr.K.K.Senthil, Advocate in SR.63025  
+2cc to Mr.K.Bhaskaran, Advocate in SR.62841  
+1cc to the Special Government Pleader in SR.62963

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and  
M.P (MD) No.1 of 2015  
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